

DCP:MAS:mel

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

OLIVER M. BOLING,	:	No. 3:CV-07-1133
Plaintiff	:	
	:	
v.	:	(Kosik, J.)
	:	
DR. ANTHONY BUSSANICH,	:	
IVAN NAVARRO;	:	
LUIS RAMIREZ;	:	
HOWARD HUFFORD;	:	
“JOHN DOES NOS. 1-10; and	:	
THE UNITED STATES OF AMERICA	:	
Defendants	:	Filed Electronically

**BRIEF IN SUPPORT OF
DEFENDANTS’ MOTION FOR LEAVE TO FILE
A BRIEF IN EXCESS OF FIFTEEN PAGES**

Defendants respectfully submit this brief in support of their motion to exceed the fifteen page, 5,000 word limit as provided in M.D. Pa. Local Rule 7.8 in filing the reply brief in support of their Motion to Dismiss and for Summary Judgment on February 8, 2010.

I. Procedural History

Plaintiff Oliver M. Boling (“Boling”) filed his Amended Complaint, through counsel, against the United States of America and the following Bureau of Prisons employees: Clinical Director Anthony Bussanich, M.D.; Physician Assistant Ivan Navarro; Physician Assistant Luis Ramirez; former Associate Warden Howard Hufford and “John Does Nos. 1 - 10.” On May 11, 2009, while the parties were engaged in discovery, Boling identified two of the John Doe defendants as being Administrative Assistant Karen Masser and Health Information Technician Lisa Wyant.

On December 18, 2009, Defendants filed a Motion to Dismiss and for Summary Judgment with supporting documentation and brief. Boling opposed the Motion and Defendants will be filing their reply brief on February 8, 2010. This brief supports a motion by Defendants to exceed the local rules regarding page limitations for briefs.

II. Factual Background

In his Amended Complaint, Boling alleges “[b]etween July 2005 and October 2005” Defendants Dr. Anthony Bussanich, Physician’s Assistant (PA) Ivan Navarro, PA Luis Ramirez, Howard Hufford, Lisa Wyant, and Karen Masser “repeatedly refused to treat Boling,” “repeatedly refused to schedule a medical examination,” for

him and “repeatedly refused to perform basic examinations, which could have led to an appropriate diagnosis and treatment of [his] colovesicular fistula.” Amended Complaint (Doc. 16) ¶¶76, 87, 98, 109, 117. Additionally, Boling alleges the United States negligently “rendered medical care and services to [him] and/or ignored [his] serious medical needs.” Id. at ¶¶124-132. Boling also alleges that “[i]n May 2006, [his] colovesicular fistula was finally repaired.” Id. at ¶71.

III. Question Presented

Whether this Court should allow Defendants to file a brief that exceeds the 15 page limitation, but does not exceed 33 pages in length?

Suggested Answer: Affirmative.

IV. Argument

Because of the legal claims and defenses raised in Defendants’ 39-page principle brief and Plaintiff’s 38-page opposition thereto, and the need to address the underlying facts relevant to each portion of the claim, Defendants are unable to address all of Plaintiff’s allegations and opposition arguments in a fifteen page or 5,000 word reply brief. Defendants submit that their brief will be no longer than thirty-three (33) pages in length and likely less. Plaintiff will not be prejudiced in granting this Motion; indeed, granting this Motion should assist Plaintiff in understanding all of Defendants’ defenses.

V. Conclusion

For the reasons stated above, Defendants request that this Court grant their request for leave to file the Reply Brief in Support of their Motion to Dismiss and for Summary Judgment in excess of the fifteen page, 5,000 word limit.

Respectfully submitted,

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Date: February 5, 2010

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	:	
DR. ANTHONY BUSSANICH,	:	
et al.,	:	
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on February 5, 2010, she served a copy of the attached

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via the Court's electronic case filing system to the electronic mail address stated below,

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